

Article 2: Public Rights-of-Way and Land Development**Division 3: Encroachments on Public Rights-of-Way or Public Property***("Permits For Work in the Public Right-of-Way"**added 11-27-1956 by O-7229 N.S.)**(Retitled to "Permits For Work in the Public Rights-of
Way and for Land Development Work" on 9-20-1960 by
O-8354 N.S.; repealed 8-17-1971 by O-10660 N.S.)**("Encroachments on Public Rights-of-Way
or Public Property" added 8-17-1971 by O-10660 N.S.)***§62.0301 Applications**

This division applies to encroachments in the public right-of-way maintained by the Property Owner.

Applications submitted by the Property Owner for permits authorizing encroachment structures in the public right-of-way shall be made in accordance with section 62.0105 of this Article.

No encroachment application shall be approved when it is determined by the Permit Issuing Authority that the encroachment structures will adversely affect the public health, safety, or general welfare.

All encroachment applications within Centre City shall be subject to the review of the Centre City Advisory Committee.

A decision on an encroachment application for a wall or fence in the public right-of-way shall be made in accordance with Process Two, as defined in Chapter 11 of the Land Development Code.

Any encroachment that constitutes "development", as defined in Section 113.0103 of the Land Development Code, is subject to all applicable regulations of the Land Development Code
(Amended 2-27-2001 by O-18924 N.S.)

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§62.0302 Encroachment Removal Agreement

Applications for encroachment permits shall be accompanied by an encroachment maintenance and removal agreement signed by the property owner. This agreement shall be prepared by the Permit Issuing Authority and shall contain the following provisions and such other provisions as may, in the opinion of the Permit Issuing Authority, be necessary to afford protection to the property owner, City, and public utilities.

- (a) The encroachment shall be installed and maintained in a safe and sanitary condition at the sole cost, risk and responsibility of the owner and successors in interest.
- (b) The Property Owner shall agree to indemnify the City with an indemnification agreement satisfactory to the City Manager and City Attorney.
- (c) The property owner must remove or relocate an encroachment within 30 days after notice by the Permit Issuing Authority or the Permit Issuing Authority may cause such work to be done, and the costs thereof shall be a lien upon said land.
- (d) For structures encroaching over or under the public right-of-way, the owner agrees to provide an alternate right-of-way or to relocate said City facility to a new alignment, all without cost or expense to the City, whenever it is determined by the Permit Issuing Authority that the City facility cannot be economically placed, replaced, or maintained due to the presence of the encroaching structure.
- (e) Whatever rights and obligations were acquired by the City with respect to the rights-of-way shall remain and continue in full force and effect and shall in no way be affected by the City's grant of permission to construct and maintain the encroachment structure.
- (f) The property owner shall maintain a policy of liability insurance in an amount satisfactory to the Permit Issuing Authority in order to protect the City from any potential claims which may arise from the encroachments.

Removal agreements for approved encroachment permits shall be recorded in the office of the County Recorder as an obligation upon the land involved.

(Amended 2-27-2001 by O-18924 N.S.)

§62.0303 Encroachments Requiring City Council Authorization

- (a) Underground structures which extend into the public right-of-way farther than the ultimate curb line.
- (b) Structures built over the public right-of-way.
- (c) Other encroachments which, in the opinion of the Permit Issuing Authority, are of sufficient public interest to require City Council approval.

(Amended 10-1-1990 by O-17534 N.S.)

§62.0304 Ramped Entries/Exits in Centre City

Ramped entries or exits used for vehicular access to buildings in Centre City where ramps would extend into the public right-of-way in such a manner as to render any portion of the existing travel way unusable for public street purposes are hereby prohibited on any street identified as an activity corridor in the Urban Design Program. The Urban Design Program is defined in Section 62.0102 of this Article, and any action in denial shall be considered a decision of the Permit Issuing Authority and, therefore, shall be subject to appeal in accordance with Section 62.0116 of this Article.

(Amended 10-1-1990 by O-17534 N.S.)

§62.0305 Public Improvement Repair or Relocation

The following provisions of this section shall apply unless provision is otherwise made by an agreement pursuant to this Division.

- (a) In the event the City is required to place, replace or maintain a public improvement over which the property owner has constructed an encroachment structure, the property owner shall pay the City that portion of the cost of placement, replacement or maintenance caused by the construction, or existence of the owner's permanent encroachment structure.
- (b) The property owner shall pay the City for all the cost of placing, replacing or maintaining a public improvement within a public right-of-way when the City's facility has failed as a result of the construction or existence of the owner's encroachment structure.
- (c) The costs of placing, replacing or maintaining the public improvement shall

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include the cost of obtaining a necessary alternate easement.

- (d) The property owner shall pay the City or public utility for all cost of relocating, replacing, or protecting a facility within the public right-of-way when such relocation, replacement, or protection results from the construction of the encroachment.

("Public Improvement Repair or Relocation" added (formerly Sec. 62.0103(f)) and amended 8-17-1971 by O-10660 N.S.)

§62.0306 Unauthorized Encroachments Prohibited

- (a) It is unlawful to erect, place, construct, establish, plant or maintain any structure, vegetation or object on Public Property or Public Rights-of-Way without a permit, City contract or franchise.

("Unauthorized Encroachments Prohibited" added (portions previously contained in former Sec. 62.0103(a)) 8-10-1993 by O-17958 N.S.)